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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,234	11/29/2001	Mark Glazier	08364.0024	9841

7590 03/31/2004

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EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/889,234

Applicant(s)

GLAZIER, MARK

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/4/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 63-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 63 and 67 is/are allowed.
- 6) ☒ Claim(s) 64-66 and 68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/4/04 has been entered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation of a pressure sensor, a pressure regulator, and control means as claimed in claims 63, 65, and 66 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. The embodiment of figure 5 represented by the recitations of claims 63, 65, and 66 includes a pressure sensor or switch 55 and a pressure regulator 29, but does not show a separate element representing a control means. Applicant argues in the remarks filed 3/4/04 that the "pressure regulator 29 of Fig. 5 is configured to provide first and second reference pressures in response to the first and second output signals... Thus, the embodiment of Fig. 5 includes a control means for selecting from among a plurality of predetermined reference pressures (i.e. the first and second reference pressures)". Applicant's remarks suggest that the pressure regulator functions as a control means, however, the claims recite the pressure regulator and the

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control means as separate entities. Examiner notes that a separate control circuit or control means 31 is shown in figures 3 and 4, however, the two figures are directed to a different embodiment not represented by language in claims 63, 65, and 66.

Clarification is required.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claims 64, 66, and 68 are objected to because of the following informalities: the phrase "the sensed pressure" first claimed in lines 3-4 of claim 64 should be changed to --the sensed gas pressure-- to maintain consistency. A similar issue exists in claim 66. Claim 68 is objected to due to its dependency from claim 64. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 64, 65, 66, and 68 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re: claims 64 and 66. The phrase "first and second reference pressures" first

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claimed in lines 2-3 of claim 64 is indefinite. It is unclear to the Examiner whether the first and second reference pressures in claim 64 are intended to be the same or different from "a plurality of predetermined reference fluid pressures" claimed in claim 63. If the reference pressures in claim 64 are intended to be the same as the plurality of pressures claimed in claim 63, Examiner recommends using such language as --wherein said plurality of predetermined reference fluid pressures includes first and second reference fluid pressures-- to avoid confusion. A similar issue exists in claim 66.

Re: claims 65 and 66. The phrase "the valve element" in line 2 from the bottom of the claims lacks proper antecedent basis in the claims.

Allowable Subject Matter

6. Claims 63 and 67 are allowed.

7. Claims 64 and 68 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

8. Claims 65 and 66 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Airbag 56 of the Stumpe reference is not described or shown as being connected to and, therefore, affected by the control means which selects one of the plurality of predetermined reference fluid pressures and urging a valve member of the variable throttling valve towards the maximum throttling position as required by the claim language.

Response to Arguments

9. Applicant's arguments filed 3/4/04 have been fully considered but they are not persuasive. Examiner maintains that Applicant fails to show the limitations of a pressure sensor, a pressure regulator, and a control means (being separate and distinct entities as suggested by the claim language in claims 63, 65, and 66) in the embodiment of figure 5. See explanation in the Drawing Objection section in paragraph 2 above.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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March 29, 2004

Melody M. Bunch

3/29/04